

# COTTONWOOD HEIGHTS

## RESOLUTION NO. 2021-60

### A RESOLUTION ACCEPTING REQUESTS FOR INDEMNIFICATION

**WHEREAS**, the city of Cottonwood Heights (the “City”) and/or City employees Daniel Morzelewski, Kyle Mahony and Ken Eatchel (collectively, the “Employees”) have been named as defendants in a lawsuit styled Marvin Barnes Ellis, Ann Jeanette Marie Ellis, individuals, and M.K.E., a minor, Plaintiffs vs. Daniel Morzelewski, Kyle Mahoney, and Ken Eatchel, individually, and in their official capacities as Cottonwood Heights Police Department employees; and Does 1-20, whose identities are currently unknown, Defendants that is pending as case no. 2:21-cv-00639 DAO in the United States District Court for the District of Utah (including any successor action or any removal or appeal of such case to another court, called herein the “Lawsuit”); and

**WHEREAS**, UTAH CODE ANN. §63G-7-902, a portion of the Governmental Immunity Act of Utah (the “Act”), provides that a governmental entity shall defend any action brought against its employees arising from an act or omission occurring (a) during the performance of the employee’s duties; (b) within the scope of the employee’s employment; or (c) under color of authority; and

**WHEREAS**, the Employees have filed one or more requests for indemnification (the “Request”) with the City concerning the Lawsuit pursuant to UTAH CODE ANN. §63G-7-902(2); and

**WHEREAS**, the Council met in regular session on 16 November 2021 to consider, among other things, granting the Request; and

**WHEREAS**, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to grant the Request and, by so doing, to agree to defend the Lawsuit and indemnify each of the Employees from and against any judgment, compromise or settlement of claim based on the acts and conduct specified in the Lawsuit, but only to the extent that such acts and conduct occurred (a) during the performance of each such Employee’s duties; (b) within the scope of each such Employee’s employment; or (c) under color of authority, with a reservation of rights by the City as provided in UTAH CODE ANN. §63G-7-902(6);

**NOW, THEREFORE, BE IT RESOLVED** by the Cottonwood Heights city council that the City hereby grants the Request and hereby agrees to defend the Lawsuit and indemnify each of the Employees from and against any judgment, compromise or settlement of claim based on the acts or conduct specified in the Lawsuit, but only to the extent that such acts and conduct occurred (a) during the performance of each such Employee’s duties; (b) within the scope of each such Employee’s employment; or (c) under color of authority, with a reservation of rights by the City as provided in UTAH CODE ANN. §63G-7-902(6).

This Resolution, assigned no. 2021-60, shall take effect immediately upon passage.

**PASSED AND APPROVED** effective 16 November 2021.

**ATTEST:**

By: 

Paula Melgar, Recorder



By: 

Michael J. Peterson, Mayor

**VOTING:**

Michael J. Peterson

Yea ☒ Nay ☐

Douglas Peterson

Yea ☒ Nay ☐

J. Scott Bracken

Yea ☒ Nay ☐

Tali C. Bruce

Yea ☐ Nay ☐ *excused*

Christine Watson Mikell

Yea ☐ Nay ☐ *excused*

**DEPOSITED** in the office of the City Recorder this 16<sup>th</sup> day of November 2021.

**RECORDED** this 17 day of November 2021.